



**LEASE AND CONCESSION CONTRACT
MAA-LC-XX-XXX**

BETWEEN

MARYLAND AVIATION ADMINISTRATION

AND

**[SELECTED PROPONENTS
SELECTED LOGISTICS PROVIDER]**

**FOR THE EXCLUSIVE RIGHT TO OPERATE AND MANAGE AN
INTEGRATED LOGISTICS CONCESSION SERVICE AND
CENTRALIZED RECEIVING & DISTRIBUTION CENTER
AT
BALTIMORE/WASHINGTON INTERNATIONAL
THURGOOD MARSHALL AIRPORT**

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**MARYLAND DEPARTMENT OF TRANSPORTATION
MARYLAND AVIATION ADMINISTRATION**

LEASE AND CONCESSION CONTRACT NO. MAA-LC-XX-XXX

**FOR THE EXCLUSIVE RIGHT TO OPERATE AND MANAGE AN
INTEGRATED LOGISTICS CONCESSION SERVICE AND
CENTRALIZED RECEIVING & DISTRIBUTION CENTER
AT
BALTIMORE/WASHINGTON INTERNATIONAL
THURGOOD MARSHALL AIRPORT**

THIS LEASE AND CONCESSION CONTRACT (“Contract”) is made this ____ day of _____, 2023, by and between the Maryland Aviation Administration of the Maryland Department of Transportation, (“Administration”), located at P.O. Box 8766, Third Floor, Terminal Building; BWI Airport, Maryland 21240-0766 and _____ (“Contractor”), whose principal place of business is _____.

WITNESSETH:

WHEREAS, the State of Maryland owns and operates Baltimore/Washington International Thurgood Marshall Airport, located in Anne Arundel County, Maryland (which Airport and any additions or improvements thereto which the Administration makes or authorizes are hereinafter collectively referred to as the “Airport”); and

WHEREAS, Administration operates the Airport for the promotion, accommodation, and development of air commerce and air transportation between the Baltimore/Washington metropolitan area and other cities of the United States and cities of other nations of the world; and

WHEREAS, Contractor has conducted, on an exclusive basis, the receipt, staging, and handling, delivery and distribution of related goods and supplies to retail, restaurant, and commercial service concessions (“Concessions Program”) at the Airport; and

WHEREAS, Contractor has conducted these services from the Administration’s Cargo Building No. 107 at the Airport; and

WHEREAS, the Administration desires to maintain seamless operations for its Concession Program tenants and other applicable tenants at the Airport; and

WHEREAS, the Administration desires to comply with safety and security requirements of the Transportation Security Administration (“TSA”) and to enhance the security screening for goods and supplies delivered to the Airport’s Concession Program tenants and other Airport tenants, as applicable; and

WHEREAS, the Administration and Contractor agree that it is in the interests of both parties that the Contractor renovate, enhance the security, and operate the centralized receiving and distribution facility (CRDF) from Cargo Building No. 107 at the Airport; and

WHEREAS, Contractor has been determined to be fully qualified and ready, willing, and able to provide continued integrated logistic concession services; and

WHEREAS, the Administration desires to enter into this Contract with Contractor on the terms and conditions set forth herein for this purpose;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and upon the terms and conditions herein set forth, the parties hereto agree as follows:

ARTICLE I
RECITALS

The recitals set forth above are hereby made a part of this Contract.

ARTICLE II
LEASED PREMISES

- A.** Administration does hereby lease to Contractor and Contractor does hereby accept and lease from the Administration, the following Leased Premises:
1. The exclusive use of 43,445 square feet (0.9974 acres) of land and the exclusive use of an existing cargo building identified as Cargo Building No. 107, having a floor area of 24,749 square feet (0.5684 acres), all of which is depicted on Exhibit “A,” attached hereto and made a part hereof (“Leased Premises”).

In the event of any remeasurement of the Leased Premises which may occur after execution of this Contract by Administration and/or Contractor, no adjustment shall be made unless such remeasurement discloses a discrepancy in excess of five percent (5%) more or less than the number of square feet leased as referenced herein. Contractor shall have the right to request such remeasurement no more

than once for the above referenced space during the term of this Contract and no more than once for each modification thereof.

2. The exclusive use of designated delivery staging zones located at apron and ramp areas within the Airport's air operations area ("AOA") and use of delivery and distribution routes established by the Administration (collectively referred to as "Delivery and Distribution Zones"), all of which is depicted on Exhibit "B," attached hereto.
 3. In addition to the said Leased Premises, Contractor shall have the non-exclusive right to use the designated access road serving the Leased Premises. Contractor reserves the right to use the designated access road to the Leased Premises jointly with other Airport tenants so that Contractor, and those parties authorized by the Administration, may gain access to other land the Administration owns in the vicinity. In addition, the Contractor shall have the right and privilege to use the designated roadways, aprons and parking areas now or hereinafter constructed at the Airport for the purpose of ingress or egress to and from the Leased Premises and to delivery and distribution zones of the Airport; provided, however, that such right of ingress and egress shall at all times be exercised in compliance with all valid regulations promulgated and uniformly applied for the care, operation, maintenance and protection of the Airport and; provided further, that such right of ingress, egress and parking shall not be construed to prohibit the Administration from establishing and assessing a fee for the privilege of vehicle parking upon designated Airport areas, other than the Leased Premises, so long as such fee is levied equitably on all tenants and users of the Airport.
- B.** The Leased Premises shall be used by Contractor, except as may be specifically provided otherwise herein, to establish, operate and maintain Contractor's logistics, receiving and distribution services in support of the Airport's concession program and other tenants at the Airport, and for other related uses as Administration may approve in writing.
- C.** Contractor acknowledges that it has made such investigations and inspections of the Leased Premises as it deems necessary, and agrees (1) that the Leased Premises are accepted "as is" for all purposes of this Contract and (2) that the Administration shall not expend any money or effort to alter or improve same except as otherwise stated herein.

- D. Employees of Contractor will be permitted to park their personal vehicles in the Airport's managers parking lot, immediate northwest to the Airport Terminal Building, subject to the same terms and conditions of use as are applicable to employees of other tenants and air carriers using the employee parking lots of the Airport.
- E. Contractor shall not use the Leased Premises, nor any portion thereof, for any purposes other than those hereinabove set forth without first having had and obtained the written consent of the Administration, and such additional purpose shall be subject to any terms and conditions as might be agreed to by the parties hereto.

ARTICLE III
TERM

The term of this Contract shall be for a period of ten (10) years commencing _____ and ending _____ (“**Contract Term**”). This Contract is subject to the approval by the Board of Public Works. This Contract may be cancelled in whole or in part with or without cause by either party, upon ninety (90) days' advance written notice to the other party.

ARTICLE IV
PERMITTED USE OF LEASED PREMISES

- A. Administration grants to Contractor the right and privilege to occupy, operate, and maintain the Leased Premises, at Contractor's sole cost and expense, in accordance with the terms, conditions, and covenants hereinafter set forth:
 - 1. Contractor shall have the right and privilege to conduct at the Airport, the following specified types of commercial activities:
 - Receiving, inspecting and x-ray screening of recipient's goods and supplies related to the Concessions Program and/or other tenants as applicable
 - Grease recycling/disposal
 - Other warehouse logistics, receiving, delivery and distribution services conducted at the Airport, as approved by the Administration.
 - 2. Contractor shall use the Leased Premises for the purpose of supporting Contractor's integrated logistics, receiving and distribution services to Airport concessions and other Airport tenants and for no other uses or purposes.

3. To install, operate, and maintain security equipment and devices required for secure storage and monitoring of goods and supplies which are related to the concessions and other tenant activities conducted at the Airport.
- B.** Contractor shall not use the Leased Premises, nor any portion thereof, for any purposes other than those set forth in this Contract without the prior written consent of the Administration. Such additional purpose shall be subject to any terms and conditions as might be specified in said consent.

ARTICLE V
SCOPE OF SERVICE

As a condition of permitted use, Contractor must:

- A.** Obtain the appropriate licenses, permits, insurances and other required approvals which are needed to operate and manage an integrated logistics service for the adequate receipt, staging and handling of goods and supplies delivered to the CRDF at the Airport;
- B.** Not engage in business at the Airport, other than that permitted by this Lease & Concession Contract, without the prior written approval of the Administration;
- C.** Provide the personnel and expertise necessary to manage and oversee in a highly professional manner, the CRDF at the Airport. Contractor must retain active, qualified, uniformed, badged, and experienced management personnel to supervise the CRDF operations;
- D.** Ensure that its representatives, agents, and employees maintain the highest standard of service and be courteous, polite, and inoffensive in their conduct and demeanor;
- E.** Abide by all rules, regulations and directives of the Administration and other governmental agencies in the conduct of its business at the Airport and ensure adherence to Administration's rules, regulations and directives by its representatives, agents, servants, employees, users, and any subcontractors having agreements with Contractor;
- F.** Conduct its activities at the Airport in a first-class manner and keep the Leased Premises in a safe, clean, orderly, and inviting condition satisfactory to Administration at all times;
- G.** Provide or cause to be provided all maintenance, cleaning, repairs, and replacements of any and all furniture, fixtures, equipment, and improvements constructed and placed in the

Leased Premises, with repairs and replacements of the quality and class equal to or better than the original in materials and workmanship;

- H.** Maintain or cause to be maintained the Leased Premises, including, but not limited to: general custodial services, pest control, fire extinguisher installation and maintenance, trash removal services, and the assurance that boxes, wooden pallets, cartons, crates, drums or the like do not pile and are removed from the Terminal Building. Contractor shall manage the return process of containers, pallets, and similar product-related containers and items back to the CRDF;
- I.** Provide at Contractor's cost and expense, TSA-approved integrated x-ray security equipment and screening services for goods and supplies received to the CRDF;
- J.** Provide at Contractor's cost and expense, refrigerators/freezers, fencing, generator, access control systems, CCTV coverage as well as the necessary transport vehicles, material handling equipment, and technology infrastructure;
- K.** Perform services in compliance with all applicable TSA and Administration security requirements.
- L.** Maintain hours of operations necessary to perform the services under this Contract; Perform material deliveries within time windows to the recipient, as mutually agreed between recipient and Contractor;
- M.** Utilize and maintain the designated delivery and distribution zones located at apron and ramp areas at the Airport Terminal Building and supply routes established by the Administration;
- N.** Install and maintain at Contractor's cost and expense, thermoplastic striping, and pavement markings with enhanced wet night visibility systems (or as recommended or required by the Administration) at the designated delivery and distribution zones for Contractor's exclusive use. Contractor shall be required to replace all striping and pavement markings every three (3) years of the Contract Term or as determined by the Administration;
- O.** Repair or cause to be repaired, any damage to access doors, door frames, walls, or floor areas of the Airport Terminal Building in the event Contractor (its employees, agents, servants, subcontractors, etc.) cause damage to such facilities. The Administration may

direct Contractor to undertake, at Contractor's expense, such maintenance, repair and/or replacement of such areas, installations, and improvements (e.g., doors, door frames, protective bumpers, and walls) necessitated by the negligent acts or omissions of Contractor, its employees, agents, servants, subcontractors, or users.

- P.** Participate in the Administration's Airport-wide trash disposal and recycling program pursuant to the Administration's Tenant Directive 003.1 and the Administration's Airport Community Tenant Guide for Trash and Cardboard Disposal (Attachment Nos. 2 and 3, respectively). In addition, Contractor shall participate in the Administration's Food Waste Composting Program (see Attachment No. 4).
- Q.** Pay all fees, assessments, taxes, and other charges levied under federal, State, county and local statutes and ordinances as are applicable to the services to be conducted under this Contract.

ARTICLE VI
CONTRACTOR'S FIXTURES

- A.** All proprietary trade fixtures, personal property, furniture, equipment, machinery and signs (hereinafter collectively called the "fixtures") owned by Contractor and installed in the Leased Premises by Contractor, whether affixed to the premises or not, shall remain the property of Contractor and shall be removable by Contractor from time to time and also at the expiration of the term of this Contract, provided, however, that Contractor is not, at such time, in default in any of the covenants, terms or provisions of this Contract.
- B.** If Contractor is then in default under the terms and conditions of the Contract, the Administration shall have a lien upon the fixtures of Contractor as security against loss or damage resulting from any such default by Contractor, and the Administration may distrain thereon and the fixtures shall not be removed by Contractor until the default is cured. If those fixtures are removed, Contractor agrees to repair, at its own expense any damage to the Leased Premises caused by the removal of the fixtures (reasonable wear and tear excepted) and this covenant shall survive the termination of this Contract. Where the removal of a fixture leaves open space in the Leased Premises, Contractor shall be required to seal up and close all openings and to finish off the area to match the remainder of that area from which the fixture had been removed.

- C. If Contractor does not remove Contractor's fixtures and all other items of personal property of every kind and description from the Leased Premises prior to the termination of the Contract, Administration shall have full ownership of all fixtures without any payment or credit by Administration to Contractor.

ARTICLE VII
CONTRACTOR'S COVENANTS

During the term of this Contract, Contractor agrees:

- A. At its cost and expense, to keep and to maintain the entire Leased Premises and any building and other improvements constructed thereon, including, but not limited to, their interiors, exteriors, utility systems, roofs and structural portions, drains and appurtenances in good condition, order, and state of repair and to make all repairs, renewals, and replacements to the same as and when necessary.
- B. To maintain and to keep in good order and state of repair all sidewalks, curbs, areaways and paved and landscaped areas of the Leased Premises, to make all repairs, renewals, and replacements to the same as and when necessary and to keep the same free of obstructions.
- C. To keep the Leased Premises and all buildings and improvements hereafter constructed thereon in a clean, orderly, safe, and sanitary condition, to provide for removal of trash and debris on a regular basis, and not to permit any nuisance or waste to occur.
- D. To pay all costs and charges for all utility services and connections including heat, gas, electric, water, sewer and all other utility services furnished to Contractor at the Leased Premises as and when the same shall become due and payable.
- E. To pay all licenses and fees arising out of its use of the Leased Premises and the improvements and all charges for minor privileges levied against the Leased Premises, the improvements or any part thereof.
- F. At its expense, to comply with all present and future federal, state, county, city and municipal or other statutes, charters, laws, rules, orders, regulations, and ordinances, including those of Administration, applicable to the Leased Premises and its occupancy, licensing, use and repair. Contractor shall also comply with all applicable rules, orders, and regulations of (i) the police, health, environmental, and fire departments, and (ii) of

the National Fire Protection Association or other similar organizations for the prevention of fire or for the correction of unhealthy or hazardous conditions. Contractor shall also comply with the requirements of all insurance companies having policies of public liability, fire and other insurance in force and effect covering the Leased Premises and the building and other improvements constructed thereon. Contractor shall pay all costs and expenses incidental to such compliance and shall indemnify and hold Administration harmless of and from any and all costs, expenses, fees, and damages Administration may incur by reason of any notices, orders, violations, directives, liens, or penalties filed against or imposed upon the Leased Premises or the Airport or against Administration because of the failure of Contractor to comply with any of the covenants of this paragraph. Contractor shall have the right to contest, bond off, or seek a review of any violation order against it by appropriate legal proceedings, conducted at its expense and diligently pursued. If, by the terms of applicable law, compliance with the violation order legally may be delayed pending the prosecution of the legal proceedings without imposing criminal liability, lien or loss upon Administration or the Leased Premises, Contractor may delay compliance until a determination has been made. If, as a result of any such legal proceedings or actions, the violation order is modified or partially revoked or cancelled, Contractor shall only be obligated to comply with such part thereof as shall remain in force and effect. Such legal proceedings or actions may be brought by Contractor in the name of Administration where required by laws, and Administration shall promptly execute any documents reasonably required to prosecute the same. If and whenever any such judgment, decree or order shall become final and binding, whether before, during or after contest, and even if after the expiration of the term of this Contract, Contractor shall promptly comply as then appropriate with the final judgment. This covenant shall survive the termination of this Contract.

- G.** If any liens or orders for the payment of money shall be filed in a court of competent jurisdiction against the Leased Premises or any improvements thereon or against Administration by reason of or arising out of any labor or materials furnished or to be furnished to Contractor in connection with any work of construction, alteration, repair or demolition to all or any part of the Leased Premises by Contractor, then to promptly, and in any event, within thirty (30) days after receipt by Contractor of actual notice of the

filing of claim in court, to cause the same to be cancelled and discharged of record, by bond, or as otherwise permitted, at Contractor's expense. Contractor shall also defend, on behalf of Administration and at Contractor's sole cost and expense, any action, suit or proceeding which may be brought for the enforcement of any such lien or order and Contractor hereby covenants and agrees to pay all damages and to discharge all judgments entered thereon and to indemnify and hold Administration harmless of and from any and all cost, expenses, fees, and damages resulting therefrom.

- H.** To comply with all applicable governmental regulations and requirements as to the placement, erection, repair, and maintenance of all signs that Contractor shall be permitted to erect at the Leased Premises.
- I.** To permit Administration and its duly authorized representatives under the escort of Contractor's personnel (comment part of security plan) the right during Contractor's business hours with prior notice (and at any time in cases of emergency without notice) to enter upon and inspect the Leased Premises for the purpose of determining that Contractor is complying with the provisions of this Article. Administration shall not unreasonably interfere with the conduct of Contractor's activities going on at the time of such entry or inspection.

ARTICLE VIII **ADMINISTRATION'S OBLIGATIONS**

During the term of this Contract, Administration agrees:

- A.** To keep and to maintain the common facilities (areas not included in the leased premises) in good condition, order, and state of repair, to provide cleaning and snow removal services for common areas and to keep the common areas well lighted when and as required by the conditions existing.
- B.** To permit Contractor and its respective agents, employees, and invitees, the use in common of all the facilities at the Airport, including, without limitation, the airfield ramps, runways, cargo discharging areas and airplane maneuvering, landing and takeoff facilities, subject to the provisions of Article II of this Contract.

ARTICLE IX
CONTRACTOR'S INSTALLATIONS

Contractor's machines, equipment, trade fixtures, and other installations of the type commonly installed by and removed by tenants from improvements similar to those authorized herein which are installed by Contractor in or on the Leased Premises shall not be deemed to be part of the realty or Leased Premises even though they are attached to the floors, walls, or roofs of the buildings or to outside pavements, so long as they can be removed without structural damage to said improvements and provided that if such removal, at Contractor's option, of any such installation results in nonstructural damage to any part of the buildings, pavements, or Leased Premises, Contractor shall repair such damage and restore said damaged parts of said buildings, pavements, or Leased Premises to a condition similar to the condition as of the effective date of this contract, normal wear and tear excepted.

ARTICLE X
ALTERATIONS TO LEASED PREMISES

- A. Contractor may, at its own cost and expense, with the prior written approval of Administration, install in the Leased Premises any trade fixture or improvement or do or make alterations or do remodeling, as to the use herein or hereafter granted. Any trade fixtures, and improvements brought, installed, erected or placed by the Contractor in, on, or about such Leased Premises shall be deemed to be personal property and shall and remain the property of the Contractor, except as otherwise provided herein, and the Contractor shall have the right at any time during the term hereof, when not in default hereunder, and with the Administration's prior written approval, to remove any or all of its property, subject to the Contractor's obligation to repair damage, if any, resulting from such removal. All trade fixtures, improvements, equipment and other property shall be removed from said Leased Premises on or before the time of the expiration or earlier termination of the letting and the Leased Premises restored to the condition existing at the time of the letting, reasonable wear and tear excepted, unless the Administration shall have advised the Contractor in writing at the time of such installation or not less than sixty (60) days in advance of such expiration or not less than thirty (30) days in advance of such earlier termination, of its willingness to accept title to such trade fixtures,

improvements, equipment and other property in lieu of restoration of the Leased Premises.

- B.** Said improvements and alterations thereof and additions hereto, shall in all respects be constructed in accordance with applicable codes, Rules and Regulations and Tenant Directives of the Administration, and pursuant to any required building or installation permit to be obtained from the Administration and according to the customary terms and conditions thereof.

ARTICLE XI
COSTS OF CONTRACTOR'S IMPROVEMENTS

- A.** Within ninety (90) days following the completion of construction of Administration approved improvements by Contractor, Contractor shall submit to Administration paid invoices of the costs of construction, certifying the actual costs of such improvements and the date of completion. Failure to provide such costs of construction shall void any buyout responsibilities established in this Contract, if any. Such costs of construction shall mean and include all costs, fees and expenses paid by the Contractor in connection with the design, development, financing, and construction of the Contractor's improvements at the Leased Premises and elsewhere within the Airport in accordance with this Contract. This shall specifically, without limitation, include the following:
1. Amounts paid by the Contractor for the construction of any buildings or building additions and other structures and all other improvements upon the Leased Premises, and elsewhere within the Airport in accordance with this Contract.
 2. Amounts paid by the Contractor to provide all utility services and connections, on-site and off-site, from the point of pick-up and connection (where they have been brought by Administration) as applicable Said utility costs shall also include costs for installation of meters to record Contractor's utilities usage.
 3. Amounts paid to the Contractor's architects, engineers, surveyors, and other consultants in connection with the design, development, financing, and construction of the Contractor's improvements.
 4. Premiums paid for all insurance required during construction, including, without limitation, public liability, builder's risk with extended coverage endorsements,

and workers' compensation insurance, and premiums paid for a performance bond and labor and material payment bond during improvements.

5. All costs, fees, and expenses, excluding overhead, paid to obtain construction financing, if any, and permanent financing, if any, including, but not limited to broker's fees, standby fees, bonus points and the like, the cost of examining title to the Leased Premises and obtaining title insurance, and the closing costs of the financing (construction and permanent).
 6. Amounts paid to independent attorneys, accountants, appraisers, and other professionals, involved in the development, financing and construction of the Contractor's improvements.
 7. Interest paid to the construction lender, if any, during the period of construction.
 8. Other amounts paid by Contractor for building construction in accordance with generally accepted accounting principles.
- B.** Administration shall have the right to examine all of Contractor's records concerning such costs of construction upon seven (7) business days' advance written notice and to audit such records at any time within seven (7) years following completion of construction.
- C.** When Administration has verified the amount of the original costs of construction, Administration shall confirm such amount in writing.

ARTICLE XII

MAINTENANCE OF LEASED PREMISES

Contractor, at its cost and expense, shall keep and maintain the entire Leased Premises, including structures and other improvements constructed thereon, including but not limited to land, paving, landscaping, utility systems, roofs, structural portions, drains, and appurtenances thereon, in good condition and in compliance with all requirements of applicable law. Administration shall not be required at any time during the term hereof to make any repairs whatsoever, other than as set forth herein. In particular, during the term of this Contract, Contractor shall:

- A.** At all times keep the Leased Premises, together with all fixtures, equipment, and personal property of Contractor located in or on the Leased Premises, in a clean and orderly

condition and appearance, and Contractor shall be responsible for all snow removal, grass cutting, trash removal, and cleaning on the Leased Premises.

- B.** Contractor shall repair, replace, rebuild, maintain, and paint all or any part of the real property improvements upon the Leased Premises which may be damaged or destroyed in accordance with Article XXVI, DAMAGE OR DESTRUCTION OF LEASED PREMISES of this Contract.
- C.** Contractor shall, during the entire term of this Contract, take such care as would a reasonably prudent owner with respect to all improvements upon the Leased Premises, including, but without limiting the generality of the foregoing, such of the following as may be located in or on the Leased Premises: fences, the exterior and interior and operating mechanism of windows and skylights, screens, roofs, foundations, steelwork, columns, doors, partitions, floors, ceilings, inside and outside paved areas, glass of every kind, and the utility, mechanical, electrical, and other systems, so that upon the expiration or sooner termination of this Contract and at all times during the term hereof, same will be in as good condition as at the commencement of the term, except for reasonable wear and tear.
- D.** Repairs made by Contractor shall be in quality and class not inferior to the original material and workmanship, and Contractor shall promptly pay the cost and expense of such repairs and maintenance.
- E.** Contractor shall, at its own cost and expense, provide and maintain all obstruction lights and similar devices, fire protection and safety equipment, and all other equipment of any kind and nature required by any law, rule, order, code, ordinance, resolution, or regulation.
- F.** Contractor shall, upon prior written notice from the Administration, promptly remove or repair any and all structures constructed by Contractor at the Leased Premises which has, by reason of use or negligence by Contractor, become unsound, unsafe, or hazardous; and in the case of Contractor's failure to remove or repair the same, Administration may remove or repair such structures without liability to Contractor or others for damages, and Contractor shall pay the cost of such removal or repair plus a 50% administrative fee as additional rent.

- G.** Contractor shall conduct its operations on the Leased Premises in an orderly and proper manner so as not to commit any nuisance or waste on said Leased Premises and in such manner, using the best known available and practical devices and facilities to reduce as much as is reasonably practical, considering the nature and extent of said operations, the emanation from the Leased Premises of noise, vibration, movements of air, fumes, and odors, so as not to interfere unreasonably with the use of other premises adjoining the Leased Premises or Airport.
- H.** Contractor shall maintain the landscaping of the Leased Premises in such a way as to produce an attractive appearance reasonably satisfactory to the Administration, and so as not to obstruct the view of vehicular traffic in the vicinity of the Leased Premises.

ARTICLE XIII
SANITARY CONDITION OF LEASED PREMISES AND EQUIPMENT

The building and other improvements on the Leased Premises, including all restroom facilities maintained by Contractor, and all equipment and materials used by Contractor shall at all times be clean and sanitary and free from rubbish, refuse, food scraps, garbage, dirt, offensive or unclean materials, flies and other insects, rodents, and vermin.

- A.** Contractor shall comply with applicable requirements of the Administration’s Office of Environmental Services, Anne Arundel County Department of Health and the Maryland Department of Health and Mental Hygiene and measures for health and sanitary regulation adopted by the County, State or any governing legal authority, and Contractor shall give access to the Leased Premises for inspection purposes to any duly authorized representative of said agencies or the Administration. While on the Leased Premises, the Administration and agencies shall conform with and adhere to Contractor’s health, safety, and security requirements.
- B.** Contractor shall strictly comply with all Airport and other rules and regulations regarding the disposition of trash and garbage, including all federal regulations regarding “regulated garbage,” as applicable. Contractor shall provide and use suitable covered receptacles for all such trash, garbage, and other refuse. Piling of boxes, cartons, or other similar items in an unsightly or unsafe manner on or about the Leased Premises or other Airport property, is forbidden. Contractor shall regularly remove from the Leased Premises to a suitable

garbage or refuse disposal area all rubbish, refuse, food scraps and garbage and shall remove, or cause to be removed, the accumulation of all such material in said garbage or refuse removal area at frequent intervals.

ARTICLE XIV
FACILITY COMPLIANCE REVIEWS AND CONTRACTOR'S FAILURE TO REPAIR

Administration will perform a facility compliance review of the Leased Premises every two (2) years of the Contract term. Administration may perform visual inspections or conduct a multi-disciplined property condition assessment of the Leased Premises. Notwithstanding the above, Administration shall have, at all times during normal business hours, the right to enter into the Leased Premises and inspect Contractor's facilities for the purpose of determining Contractor's compliance with its obligations under this Contract. Administration will provide at least 24 hours' notice before any inspection except in cases of emergency, security, or safety concerns, or to investigate or remediate potential threats or hazards. Administration's facility compliance review will prioritize any repairs or other maintenance or capital needs relating to the Leased Premises that are identified in its review.

No less than six (6) months prior to the expiration of the Contract, Administration will provide Contractor with a final *Facility Compliance Review Report* for the Leased Premises which Contractor shall be required at its sole cost and expense to complete all identified repairs, replacements and/or other maintenance. This covenant shall survive the expiration of this Contract.

In the event that Contractor fails, after ten (10) days written notice from Administration, to keep the Leased Premises in a good state of condition and repair, or to commence and continuously prosecute required repairs, or to do any act or make any payment required under this Contract or otherwise fails to comply herewith, Administration may, at its option, enter upon the Leased Premises to make such repairs or do any act or make any payment or compliance which Contractor has failed to do and, upon demand, Contractor shall reimburse Administration for any such expense incurred by Administration plus an administrative handling fee of fifty percent (50%) of said Administration expenses. Any monies expended by Administration, as aforesaid, shall be deemed additional rent, collectible as such by Administration. All rights given to

Administration in this Article shall be in addition to any other right or remedy of Administration herein contained. Administration's failure to notify Contractor of any noncompliance shall not be deemed or constitute a waiver of its right to demand Contractor's remediation of any subsequent noncompliance.

ARTICLE XV
LEASE AND CONCESSION CONTRACT PAYMENT

In consideration of the Contract rights and privileges to be granted to Contractor by the Administration, Contractor shall pay to the Administration a Minimum Monthly Concession Fee as stated in Section A of this Article **AND** a Percentage Concession Fee in Section B of this Article on a monthly basis. The Minimum Monthly Concession Fee in Section A shall be paid on or before the first day of each calendar month.

- A. Contractor shall pay to Administration a **Minimum Monthly Concession Fee** in the amount of Thirty-Six Thousand, Ninety-Six Dollars and Seventy-Nine Cents (**US\$36,096.79**), calculated as the sum of an annual Land Rental Fee and an annual Facility Rental Fee, **on a monthly basis**, as more particularly described below:
1. The **Land Rental Fee** of Thirty-Four Thousand Six Hundred Seventy-Seven Dollars and Eighty Cents (**US\$34,677.80**) **per annum** is based upon land rental rate of \$0.7982 per square foot per annum for 43,445 square feet of land area identified on Exhibit "A" attached hereto. The land rental rate is based upon a fair market value analysis conducted by an experienced independent appraiser and member of the American Institute of Real Estate Appraisers and adjusted in accordance with Article XV.A.3.
 2. The **Facility Rental Fee** of Three Hundred Ninety-Eight Thousand, Four Hundred Eighty-Three Dollars and Sixty-Five Cents (**US\$398,483.65**) **per annum** is based upon a rate of \$16.101 per square foot per annum for 24,749 square feet of the CRDF identified on Exhibit "A." The facility rental rate is based upon a fair market value analysis conducted by an experienced independent appraiser and member of the American Institute of Real Estate Appraisers and adjusted annually in accordance with Article XV.A.3.

3. The Land Rental and Facility Rental Fee set forth in Article XV.A.1 and Article XV.A.2 above shall be adjusted annually by the greater of 3% or the change during the most recent twelve (12) months in the Consumer Price Index (CPI) for All Items in Washington—Arlington—Alexandria, DC-VA-MD-WV, Urban Wage Earners and Clerical Workers, Not Seasonally Adjusted. The Bureau of Labor Statistics Series ID for this index is CWURS35ASA0. If the Bureau of Labor Statistics ceases to publish this index, a similar index will be used.
- B.** Contractor shall pay to Administration a **Percentage Concession Fee of ten percent (10%) on gross revenues** realized from Contractor’s adjunct services agreements with tenants that do not participate in the Administration’s Concessions Program for the logistics, receiving, delivery and distribution services. The Percentage Concession Fee shall be paid in addition to the Minimum Monthly Concession Fee specified in Section A above. The Percentage Concession Fee payment specified in this Article XV.B shall be paid to the Administration by Contractor without demand on or before the twentieth (20th) day following each calendar month during the Contract Term. Contractor shall furnish to the Administration (i) a statement of the Gross Revenues derived from its adjunct services external to the Administration’s concession program during the proceeding calendar month, certified by Contractor, using an *Activity Report* prepared in a manner satisfactory to the Administration, and (ii) payment of the amount of the Percentage Concession Fee derived from Gross Revenues specified in this Article XV.B herein.
- C.** Notwithstanding the above, Contractor shall be required to contribute ten percent (10%) of gross revenues realized from Contractor’s adjunct service agreements external to the Administration’s Concessions Program to reduce the CRDF annual operating expenses, minimizing the direct costs for delivery and distribution services, including any capital improvements to the CRDF, for CRDF users.
- D.** For the purpose of this Contract, “Gross Revenues” shall be defined as all revenues due to Contractor for:
1. Logistics, receiving, delivery and distribution services that take place on or from the Leased Premises; and

2. Any other warehouse, x-ray screening, delivery and/or distribution services including grease recycling and disposal services conducted at the Airport or any other services as approved by the Administration.

No deductions from Gross Revenues shall be made for bad debts. Only the following shall be excluded or deducted, as the case may be, from Gross Revenues: Federal, state, municipal or other governmental excise taxes, sales, use or privilege taxes now or hereafter imposed and required to be collected by the Contractor or its representatives directly from services recipients and required to be paid in turn to any governmental agency.

E. **Payment.** All payments due and payable to Administration shall be paid by electronic fund transfer to the following:

Payee: Maryland Aviation Administration
52-6002033
Bank: Wells Fargo Bank NA
420 Montgomery Street
San Francisco CA 94101
ACH ABA: 121000248
Swift code: WFBIUS6S
Chips code: 0407
Account: 4105085690 Checking

Payments not received within ten (10) calendar days from date due may be assessed an additional one and one quarter percent (1.25%) fee per month late charge until paid. In the event Contractor's past due account is forwarded by the Administration to the State of Maryland Contract Collection Unit (CCU), the Contractor will be responsible to pay CCU's standard collection fees in addition to any amounts due to the Administration.

F. **Payment Default.** If, for any month of the Contract Term, Contractor fails to remit to the Administration the Minimum Monthly Concession Fee payment by the first (1st) of the month or the Percentage Concession Fee or other payments due by the twentieth (20th) day on the following month, Contractor may be declared in default and the Administration shall have the right to terminate the Contract or take any or all other actions as provided in Contract Article XXXV, Default and Rights and Remedies Upon Default.

ARTICLE XV
CONTRACTOR’S OPERATING BUDGET AND REIMBURSABLE EXPENSES

The Administration has a terminal concession management company for the Non-Exclusive Right to Redevelop, Renovate & Manage the Retail, Restaurant & Commercial Services at BWI Marshall Airport (“Terminal Concession Program Developer”). The Terminal Concession Program Developer is responsible for collecting Delivery and Distribution Funds from its subtenants, which will be the sole source of payment and reimbursement of Contractor’s Operating Expenses. Contractor shall enter into a service agreement with the Administration’s Terminal Concession Program Developer outlining the terms and conditions for service and payment, and the Administration shall require that the Terminal Concession Program Developer also enter into such agreement. The Administration shall regularly review the Terminal Concession Program Developer’s Delivery and Distribution Fund records and compare them to Contractor’s Operating Budget and Reimbursable Expenses to ensure contractual compliance. The following requirements must be included in Contractor’s agreements with Terminal Concession Program Developer:

1. Annualized Operating Budget

Contractor shall prepare and submit to the Terminal Concession Program Developer for its review and approval an annualized Operating Budget and monthly projection for each year of the Contract Term. The Operating Budget shall be reviewed quarterly by the Contractor and Terminal Concession Program Developer and may be reviewed more frequently at the request of either party. The Operating Budget shall reflect the amounts established in the agreement between Contractor and Terminal Concession Program Developer and shall be comprised of three sections: (i) details of the Contractor’s Fixed Management Fee; (ii) details of the non-recurring reimbursable expenses that are expected to occur on a one-time or irregular basis; (iii) details of the normal, recurring reimbursable expenses. These three sections together shall constitute the Operating Budget.

The normal, recurring reimbursable expense portion of the Operating Budget shall include, without limitation, the following separate subsections and any other

subsections as requested in writing by the Terminal Concession Program

Developer:

- a. Personnel Compensation;
- b. Employee Benefits;
- c. Training;
- d. Communication & Utilities;
- e. Reimbursable Contract Services;
- f. Supplies & Materials;
- g. Insurance & Taxes;
- h. Facility and Equipment Maintenance
- i. Non-Capital Equipment;
- j. Capital Equipment;
- k. Non-Capital Facility Projects; and
- l. Capital Facility Projects.

The Operating Budget shall also include a separate schedule detailing the foreseeable, non-recurring expenses that are expected to occur on a one-time or irregular basis.

Operating Budget approvals and approval of revisions will be made in writing by the Terminal Concession Program Developer. The approved Operating Budget or revised Operating Budget shall be binding upon Contractor. For purposes of approval, Contractor shall develop and submit its Operating Budget to the Terminal Concession Program Developer according to the following schedule:

Action	Completion Date
• Contractor's Operating Budget Submission to the Terminal Concession Program Developer	October 1
• Terminal Concession Program Developer's review and comments completed	November 1
• Approval of final Operating Budget and First Quarter Plan	December 1
• Contract Year Begins	January 1
• Closeout of previous Contract Year Budget	on or before May 1
• Submission of Year-End Closeout Budget Report	on or before June 1
• Evaluation/review of previous Contract Year Budget Performance	on or before July 1

2. Quarterly Review

Contractor shall submit on or before the 30th day of each calendar quarter of the Contract Term a revenue and expense report with documents of all actual operating expense payments. **Upon the two-year anniversary of the Contract Term, Contractor may submit its documents of all actual operating expense payments on a semi-annual basis. All Operating Expenses as referenced in Contractor's Operating Budget must be actually incurred and paid by Contractor in its performance of this Contract and must be on a dollar-for-dollar basis with a mark-up of 7.5%.**

3. Shifting of Budget Funds

Contractor may, subject to advance written notice and approval by the Terminal Concession Program Developer, shift funds within Contractor's Operating Budget from one-line item to another as necessary to fulfill the service and operations requirements specified herein.

4. Contractor's Fixed Management Fee

Commencing on the Effective Date, for the management and operation of the CRDF, Contractor shall maintain a fixed annual dollar amount of Two Hundred Thousand Dollars (US\$200,000.00) to operate the Integrated Logistics Concession Service at the Airport. The Contractor's Fixed Management Fee be paid by the Terminal Concession Program Developer and shall increase to an additional Ten Thousand (US\$10,000.00) on the sixth-year anniversary of the Contract Term.

5. Reimbursable Expenses

In addition to the Fixed Management Fee, Terminal Concession Program Developer shall reimburse Contractor dollar-for-dollar for expenses incurred for additional items, that have been approved (such approval not to be unreasonably withheld, conditioned, or delayed) in writing by the Terminal Concession Program Developer, after the commencement date and before the expiration or

earlier termination of this Contract and that are not otherwise prohibited by this Contract.

All line items included in the approved Operating Budget and additional items approved in writing by the Terminal Concession Program Developer shall be considered Reimbursable Expenses. **All reasonable expenses, except Non-Reimbursable Expenses as defined below, are reimbursable provided that the expenses are either included in the approved Operating Budget or specifically approved in writing by the Terminal Concession Program Developer.** Any expenditure not included in the approved Operating Budget or otherwise expressly approved in writing by the Terminal Concession Program Developer is not a Reimbursable Expense. Contractor shall ensure that Reimbursable Expenses are timely submitted to the Terminal Concession Program Developer for deduction approval in accordance with the approved Operating Budget and fall within the expenditure's budget cycle, with the exception of deductions (Reimbursable Expenses) associated with the last month of the budget year, which would be deducted within the first quarter in the subsequent budget year. **Notwithstanding the above, and references herein, all Reimbursable Expenses must be actually incurred and paid by Contractor in its performance of this Contract and the associated Airport Concession Program contract with the Terminal Concession Program Developer and will be reimbursed on a dollar-for-dollar basis plus a mark-up of 7.5% for profit.** Reimbursable Operating Budget Expenses include, but are not necessarily limited to the following:

- a. Start-up and transition costs in accordance with the Terminal Concession Program Developer approved Operating Budget;
- b. Base payroll costs for all authorized employees, including regular salaries and wages (FICA, SUTA, Workers Compensation and Social Security), employee incentives, employee training costs and overtime as evidenced by a payroll register;
- c. The expense of any retirement program, e.g., 401(k);

- d. The cost of employee benefits (including sick days, health insurance, vacation, and approved holiday's) applicable only to employees employed by Contractor at the Airport, including fees and expenses payable to any professional employer organization utilized by Contractor, including Insperity;
- e. The cost of training materials for local employees, employee seminars, and local training programs or seminars approved in advance by the Terminal Concession Program Developer;
- f. The cost of insurance as required in Article XXIII of the Contract;
- g. Cost of any bonds or other security required to be posted by Contractor hereunder or under any agreement with the Terminal Concession Program Developer, including as required by Article XX;
- h. Cost of uniforms and the cost of uniform maintenance including professional cleaning, if any; Maintenance materials, supplies used on site and small equipment;
- i. The cost of materials, equipment maintenance and facility maintenance (as approved and not unreasonable withheld - either dollar for dollar or amortized), and repair services and cost for fuel for service vehicles operating at the Airport;
- j. Cell phones, other mobile and/or wireless devices and third-party information technology expenses, including ISST Corporation, used to conduct business activities at the Airport under this Contract;
- k. Incentive awards (subject to approval by Terminal Concession Program Developer).
- l. Marketing and promotion;
- m. Office equipment, computers, and other information technology equipment;
- n. Utilities (which falls under Contractor's responsibilities) and common area maintenance charges;

- o. Business telephone and communications lines for credit card processing;
- p. Amounts required to be paid under this Contract (other than any Percentage of Concession Fee);
- q. Contractor's interest expense with respect to and financing used to fund Contractor's equipment, improvements to the Leased Premises and fixtures;
- r. Depreciation of capital assets at a rate of 5 years for equipment (including, x-ray and EDS) and 10 years for improvements to the Leased Premises and fixtures;
- s. any non-income taxes assessed on Contractor in connection with providing the services contemplated by this Contract; and
- t. The cost of maintenance and repair of the Leased Premises and zones performed by Contractor, including as required by Article XII.
- u. The cost of commercial property (the Leased Premises) rental, property taxes and insurance.

6. Non-Reimbursable Expenses

The approved Operating Budget shall not include the following expenses (all of which shall be paid for by Contractor using its own funds):

- a. Salary, costs, and expenses of all off-site, nonresident legal, audit, administrative, bookkeeping, and executive personnel of Contractor, except as specifically approved in writing by the Terminal Concession Program Developer. "Nonresident" personnel are defined as personnel whose primary work site is not within the designated operating area at the Airport;
- b. Home office travel, home office or local entertainment and accommodations, and off-site general office expenses;
- c. Membership/sponsorship on any professional organization and travel to training programs and seminars that are not local;

- d. Deductibles for insurance claims and the administrative costs of administering claims;
- e. The expenses of legal representation, lobbyists and associated costs;
- f. The expense of any penalties, fines, and late payment fees incurred by Contractor;
- g. The expense of off-site business license and similar fees incurred by Contractor in its business operations;
- h. Missing or unreturned employee badges, lost employee uniforms, laundry, and linens;
- i. Any cost incurred for repair or replacement of property due to acts of vandalism and negligence caused by employee(s) of Contractor.
- j. The financing costs associated with Contractor's working capital;
- k. Expenses for meetings between executive level representatives of Contractor and the Terminal Concession Program Developer;
- l. Any employee compensation benefits, e.g., a car allowance, that are not specifically approved by the Terminal Concession Program Developer;
- m. Any operating expenses incurred or associated with or that can be contributed to services provided external to the Concession Program.

7. Certified Quarterly Statements

By the 20th day of each calendar quarter, Contractor shall detail its budgeted Operating Expenses in a certified quarterly statement with all invoices and supporting documents for the previous quarter. Within thirty (30) calendar days, the Terminal Concession Program Developer shall notify Contractor in writing of its objection to any item or items or expenses which it deems to be non-reimbursable. Any such notice shall set forth the nature of the Terminal Concession Program Developer's objection and shall be accomplished by the Terminal Concession Program Developer's written non-approval of the reimbursable and prohibited inclusion of Contractor's Operating Expense.

Notwithstanding the above, upon the two-year anniversary of the Contract Term, Contractor may submit all invoices and supporting documents on a semi-annual basis for the remainder of the Contract Term.

8. Disputed Expenses

The Terminal Concession Program Developer shall give Contractor written notice of any disputed Contractor expenses and the reasons for such dispute. Contractor, within fifteen (15) calendar days from receipt of such notice from the Terminal Concession Program Developer shall provide a written explanation of the disputed expenses to the Terminal Concession Program Developer. All disputed expenses shall be resolved within forty-five (45) calendar days from written notice of dispute. If such disputed expense is not resolved within forty-five (45) calendar days, then the Terminal Concession Program Developer's determination shall be final.

9. Operating Advance and Payments

Contractor's service agreement with the Terminal Concession Program Developer shall outline the terms and conditions for service and payment as approved by the Terminal Concession Program Developer shall advance to Contractor an amount equal to one month of Contractor's approved Operating Budget. Contractor's Fixed Management Fee shall not be included or subject to advance payment. The Operating Advance shall be fully reimbursed by Contractor to the Terminal Concession Program Developer upon termination or expiration of the Contract.

10. Payment

Contractor shall be reimbursed its Operating Expenses as outlined in its approved annual Operating Budget, through the Terminal Concession Program Developer. Contractor's approved Operating Expenses shall be paid monthly by the Terminal Concession Program Developer as a pass through from its Delivery & Distribution Charges assessed to each Terminal Concession Program sublessee.

In the event there are funds remaining or an overpayment of the Operating Expenses, such excess funds shall rollover into the following year's Operating

Budget and reduce the following year's Operating Budget expenses for the Terminal Concession Program Developer. **All Operating/Reimbursable Expenses as referenced in Contractor's Operating Budget must be actually incurred and paid by Contractor in its performance of this Contract and in conjunction with the Terminal Concession Program and must be on a dollar-for-dollar basis with a mark-up of 7.5%. Any funds remaining or an overpayment of the Operating Expenses as outlined in Contractor's approved annual Operating Budget, Contractor shall rollover all excess funds into the following year's Operating Budget thus reducing the Operating Expenses of the Terminal Concession Program for the following year.**

ARTICLE XVI
RECORD KEEPING AND AUDITING

A. Additional Information

In addition to the reports and records specifically required by Articles XIII.G of this Contract, Contractor shall provide to the Administration any other financial or statistical report that the Administration may reasonably require during the Contract Term.

B. Record Keeping

Contractor shall retain and keep available for five (5) years after each year of the Contract term, or until specific prior written approval from the Administration is granted, the books and records of accounts of its business conducted at the Airport for each such year. Those original records and documents (which may include, without limitation, external hard drives, USB drives and other electronic media compatible with the hardware/software available to the Administration. must be easily retrievable and stored in an organized manner to facilitate a timely audit, and be protected from loss in a location and manner acceptable to the Administration. All books and records relating to the performance of the Contract shall be kept in accordance with generally accepted accounting principles.

At a minimum, the books and records shall include, without limitation, a record of Gross Revenues, Operating Expenses, Operating Budgets, deductions, tax payments, and any

other pertinent information required by the provisions of this Contract or required by the Administration at a later time. The Administration, or its duly authorized representatives shall have the right to inspect and audit, without prior notice, all such books and records including, but not limited to those pertaining to revenue control equipment costs and maintenance, during all normal business hours.

C. Auditing

Within sixty (60) calendar days after the end of each Contract Year, Contractor shall furnish to the Administration with an audited report of its operations prepared by an independent Certified Public Accountant (CPA) satisfactory to the Administration. The audit shall be conducted in accordance with GAAP and represent Contractor's operations at the Airport on a Contract Year basis. The audit requires an independent CPA to issue an opinion on the completeness and accuracy of the statement of revenues collected or collectible and payments due to the Administration, or Administration's designee. The Administration expects that Contractor's books, records, and operations will permit the CPA to provide an unqualified opinion. Should the CPA be unable to render an unqualified opinion, the Administration may consider Contractor in default and cause the Contract to be terminated.

The audits shall be conducted in accordance with GAAP and represent Contractor's operations at the Airport and CRDF. The audits require an independent CPA to issue an opinion on the completeness and accuracy of the statement of revenues collected or collectible, expenses, payment of expenses and any other opinion on the use and operation of the CRDF.

During the Contract Term, the Administration may cause to have performed an audit of Contractor's records. The Administration may request upon seven (7) business days advance written notice to the Contractor or its authorized representative access to any and all original books, records, reports, accounts, including electronic data, correspondence, etc. pertaining to this Contract for the purpose of copying, inspection, and/or special audit. The Contractor shall comply with all such requests, which shall not be limited in number, and shall cooperate in providing access to its original records and knowledgeable employees. The Contractor shall make such records and, if requested,

employees, available to the Administration at the Airport or such other location as is mutually agreed upon by the parties.

If an audit inspection in accordance with this Section reveals underreporting or improper deductions, expenses or fees associated with revenue collections or operating expenses because of Contractor's internal controls are inadequate to account for all Contractor's operations at the Airport and CRDF, the Contractor shall upon written notice from the Administration, pay such additional sums, lost interest income, and audit costs plus damages equal to fifty percent (50%) of the findings. Any adjustments and/or payments which must be made as a result of any such audit of the Contractor's records will be made within a reasonable amount of time [not to exceed thirty (30) days] from presentation of Administration findings to the Contractor.

Any deliberate misrepresentation shall constitute fraud and place the Contractor in default. The Administration may use any and all legal remedies, including withholding future payments, to recover any payments to the Contractor by the Administration or any payment to the Administration by the Contractor, which are determined to be as a result of an audit.

D. Monthly, Quarterly and Annual reports shall be forwarded to:

**Director, Office of Commercial Management
Maryland Aviation Administration
P.O. Box 8766
Third Floor, Airport Terminal Building
BWI Airport MD 21240-0766
MAAOCMReports@bwiairport.com**

With a copy sent to:

**Accounting Section
Maryland Aviation Administration
P.O. Box 46129
BWI Airport MD 21240-6129
maaacctreceivable@bwiairport.com**

E. **Demographic Study**

Contractor shall participate and deliver to the Administration an annual demographic study prepared by an independent third-party, which at minimum shall include: (1)

census of the number of CRDF employees, (2) employment demographics by race and gender, (3) job classifications and (4) wages.

F. Acceptance of Reports and Payments

The acceptance by the Administration of any statement or of any payment from Contractor, shall not be deemed a waiver of the right of Administration to claim additional payment is due after a review and inspection of Contractor's books and records.

G. False Statements

Knowingly furnishing to the Administration false statements will constitute a default of this Contract and the Administration may use any and all available remedies, including but not limited to the option to declare the Contract terminated and exercise such other remedies available at law or set forth herein.

ARTICLE XVII
FINANCIAL LIABILITY OF ADMINISTRATION AND CONTRACTOR

Administration and Contractor are not and shall not be considered as joint venturers, partners, or agents of each other and neither shall have the power to bind or obligate the other. There shall be no liability on the part of Administration to any person for any debts incurred by Contractor or by any business conducted on or off the Airport in connection with Contractor's operation at the Airport.

ARTICLE XVIII
TAXES AND ASSESSMENTS

Contractor shall bear all real estate taxes, payments in lieu of taxes, property taxes and all other taxes or assessments which may become due and payable on the buildings and/or improvements constructed by Contractor on the Leased Premises. Contractor shall make direct payment(s) to any governmental taxing authority whether any of the foregoing are created, assessed, or imposed under or by virtue of any present or future law, statute, charter, ordinance, regulation, or other requirements of any governmental authority, federal, State, county, city, municipal or otherwise.

ARTICLE XIX
UTILITIES

Contractor agrees to pay all costs and charges for heat, electric, water, sewer, and all other utility services and connections furnished to the Contractor at the Leased Premises as and when the same shall become due and payable. Contractor shall also pay all licenses and fees, levied by third parties, arising out of its use of the Leased Premises, including, but not limited to, all charges for minor privileges levied against the Leased Premises, the improvements thereon or any part thereof. Administration reserves the right to install or to require Contractor to install, at Contractor's expense, any and all electric, water or sewer meters or submeters identifying necessary utility usage.

ARTICLE XX
PERFORMANCE GUARANTEE

- A.** Contractor shall be required to execute and deliver to the Administration within fifteen (15) calendar days of the commencement date of this Contract a performance guarantee, in the amount of One Hundred Eight Thousand Two Hundred Ninety Dollars (US\$108,290.00) equal to three months of Minimum Monthly Concession Fee payments. The Contractor shall maintain such performance guarantee for the entire term of the Contract, to include any extension if applicable. The amount of the performance guarantee shall be adjusted each year to an amount equal to approximately twenty-five percent (25%) of the amounts reasonably estimated to be invoiced to Contractor by Administration for the previous Contract year.
- B.** If in the form of a surety bond, the performance guarantee may be issued for a one (1) year period, provided, however, that evidence of renewal or replacement of the said bond must be submitted annually by Contractor to Administration at least sixty (60) days prior to the expiration date of the bond. The surety bond shall contain language that the surety company shall notify Administration in writing within fifteen (15) calendar days of a determination that the surety bond is to be terminated or is not going to be renewed. The surety bond must be executed by Contractor and by a surety meeting the qualifications set forth in Article XXI hereof.

- C. The performance guarantee assures performance of the Contract by Contractor and the payment to Administration of all payments required by the Contract, and shall be subject to claim in full or in part by the Administration in the event Contractor fails to fully perform the Contract.
- D. The performance guarantee, at the option of Contractor, may be in the form of: 1) an irrevocable standby letter of credit issued by a financial institution approved by the State Treasurer and in a form satisfactory to the Attorney General; or 2) a bond executed by Contractor and by a surety meeting the qualifications set forth in Article XXI.
- E. Any interest accrued on the performance guarantee will be retained by Administration.
- F. In the event that Contractor fails to provide the performance guarantee as provided herein within fifteen (15) days of the commencement date of the Contract, the Contract may not be executed by Administration.
- G. If Administration draws upon the required performance guarantee, it shall be the obligation of Contractor to replenish the performance guarantee to the contractually required level within ten (10) business days of such draw by Administration. Failure to do so may constitute a default under the Contract.

ARTICLE XXI
SURETY QUALIFICATIONS

The surety, or sureties, upon the required performance guarantee shall be a corporate surety, or sureties, authorized to do business in the State of Maryland by the Maryland Insurance Administration and the Maryland Department of Assessments and Taxation.

ARTICLE XXII
INSURANCE

- A. Contractor shall, at its own cost and expense, purchase or acquire and carry in effect through the term of the Contract, a policy or policies of insurance, with an insurance company that is financially sound and, when possible, authorized to conduct business in the State of Maryland and upon whom process in any suit or action or other proceeding in the courts of the State of Maryland or of the United States may be served. Contractor

shall be insured against all liability, subject to policy terms, conditions, and exclusions, for injuries to persons (including wrongful death) and damages to property caused by the Contractor's use and occupancy of the Leased Premises or otherwise caused by the Contractor's activities and operations on the Leased Premises or elsewhere at the Airport. Policy limits shall meet or exceed the minimum(s) as set forth below, which may be increased by the Administration, as deemed necessary. The levels of insurance are to cover claims arising in connection with the Contract and shall not be subject to any degree of depletion as a result of claims arising in connection with other activities undertaken by the Contractor.

1. Commercial General Liability Insurance. Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance.
 - a. The CGL insurance and, if necessary, commercial umbrella insurance shall be a limit of not less than Five Million Dollars (US\$5,000,000) for each occurrence, which may be increased, as deemed necessary by the Administration. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location or project, as appropriate.
 - b. The CGL insurance shall be written on ISO form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover, but not be limited to, liability arising from the Leased Premises, operations, independent contractors and subcontractors, products-completed operations, personal injury, and advertising injury, and liability assumed under an insured contract, and contain separation of insureds (cross liability) condition. Explosion, collapse, pollution, and underground property damage liability shall not be excluded.
 - c. The CGL insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Administration. There shall be no endorsement or modification of the CGL to make it excess over other available insurance. If the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

- d. Waiver of Right of Recovery and Subrogation. Contractor shall waive all rights against the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives for recovery of damages to the extent these damages are covered by the CGL or umbrella liability insurance obtained by the Contractor.
 - e. Additional Insureds Endorsement. The CGL and, if necessary, commercial umbrella insurance shall be endorsed to identify the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives as additional insureds, not named insureds, as their interest may appear in connection with the Contract. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.
 - f. Cancellation, Material Changes, or Non-Renewal Endorsement. The CGL and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) calendar days, ten (10) calendar days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance.
2. Commercial Automobile Liability Insurance.
- a. Contractor shall maintain automobile liability insurance and, if necessary, commercial umbrella liability insurance with a limits as set forth below:
 - i. Non-Restricted Areas (accessible to the general public). A limit of not less than Five Million Dollars (US\$5,000,000) for each accident.
 - ii. Restricted Areas (Non-Movement Area Access). A limit of not less than Ten Million Dollars (US\$10,000,000) for each accident.
 - iii. Restricted Areas (Movement Area Access). A limit of not less than Twenty Million Dollars (US\$20,000,000) for each accident.

- b. This Contract does not require the Contractor to have vehicular access to the Restricted Areas (Movement Area Access) of the Airport. The limit provisions of commercial automobile liability insurance for restricted areas (non-movement area access) in Section A.2.a.ii above apply to this Contract.
- c. Such insurance shall cover liability arising out of any auto. If the Contractor does not own automobiles, then coverage, at a minimum, shall be for non-owned and hired autos.
- d. A schedule of the vehicles used on the Airport and covered under the policy shall be provided to the Administration.
- e. Waiver of Right of Recovery and Subrogation. Contractor shall waive all rights against the State of Maryland, MDOT, the Administration and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by Contractor.
- f. Designated Insured Endorsement (Additional Insured). The automobile liability insurance and, if necessary, commercial umbrella insurance shall be endorsed on ISO form CA 20 48 (or a substitute form providing equivalent coverage) to identify the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives as additional insureds, as their interest may appear in connection with the Contract. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.
- g. Cancellation, Material Changes, or Non-Renewal Endorsement. The automobile liability insurance and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) calendar days, ten (10) calendar days for non-payment of

premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.

3. Fire and Extended Coverage Insurance. Contractor shall maintain extended coverage insurance.
 - a. The Extended Coverage Insurance shall be in amount not less than ninety percent (90%) of the replacement cost of improvements and fixtures on the Leased Premises, with a loss payable endorsement in favor of the parties hereto as their respective interests may appear.
 - b. The Fire and Extended Coverage insurance shall be written on the appropriate ISO form (or substitute form providing equivalent coverage.)
 - c. Waiver of Right of Recovery and Subrogation. Contractor shall waive all rights against the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives for recovery of damages to the extent these damages are covered by Fire and Extended Coverage insurance obtained by Contractor.
 - d. Loss Payee Endorsement. The Fire and Extended Coverage insurance shall be endorsed to identify the State of Maryland, MDOT and the Administration as Loss Payee with respect to proceeds attributable to damage to the Building. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.
 - e. Cancellation, Material Changes, or Non-Renewal Endorsement. The Fire and Extended Coverage insurance shall be endorsed to provide the Administration with at least thirty (30) calendar days, ten (10) calendar days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance.

4. Workers' Compensation and Employer's Liability Insurance. Contractor shall maintain workers' compensation and employer's liability insurance.
 - a. Workers' Compensation. Coverage shall be at statutory limits as required by the laws of the State of Maryland.
 - b. Employer's Liability. The commercial umbrella and/or employer's liability limits shall not be less than One Million Dollars (US\$1,000,000) each accident for bodily injury by accident or One Million Dollars (US\$1,000,000) each employee for bodily injury by disease and which may be increased, as deemed necessary by the Administration.
 - c. Waiver of Right of Recovery and Subrogation. Contractor shall waive all rights against the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor.
 - d. Cancellation, Material Changes, or Non-Renewal Endorsement. The workers' compensation and employer's liability insurance shall be endorsed to provide the Administration with at least thirty (30) calendar days, ten (10) calendar days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.
5. Commercial Property Insurance.
 - a. Contractor shall obtain Commercial Property Insurance of the types and in the amounts described in item 5.b. below.
 - b. Contractor shall maintain all-risk property insurance covering the full value and full replacement cost of the Contractor's property and Contractor's improvements and betterments.
 - c. Contractor may, at its option, purchase business income, business interruption, terrorism, extra expense, or similar coverage as part of the

commercial property insurance, and in no event shall the State of Maryland, MDOT, the Administration, or any of their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives be liable for any business interruption or other consequential loss sustained by the Contractor, whether or not it is insured, even if such loss is caused by the negligence of State of Maryland, MDOT, the Administration, or any of their authorized principals,, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives.

- d. Contractor may, at its option, purchase insurance to cover its personal property. In no event shall the Administration be liable for any damage to or loss of personal property sustained by the Contractor, even if such loss is caused by the negligence of the State of Maryland, MDOT, the Administration, or any of their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives.

6. Cyber Liability Insurance.

- a. Contractor shall maintain cyber liability insurance with a limit of not less than Three Million Dollars (US\$3,000,000.00) for each occurrence covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion, and network security.
- b. Waiver of Right of Recovery and Subrogation. Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, personnel, volunteers, and representatives for recovery of damages to the extent these damages are covered by the cyber liability insurance obtained by Contractor pursuant to this Contract.

7. Other Insurance. Other insurance may be required during the term of the Contract, as determined by the Administration, and the Contractor shall obtain such additional insurance required by the Administration at its sole cost and expense within forty-five (45) calendar days after receipt of the written request from the Administration.

B. Insurance Company's Financial Rating. For those insurance companies subject to A.M. Best's ratings, they shall have an A.M. Best's rating of "A-" or better and a financial size category of VII or better. For those insurance companies not subject to A.M. Best's ratings, they shall have a nationally or internationally recognized reputation and responsibility and shall be approved by the Administration with such approval not to be unreasonably withheld.

C. Insurance shall be written on an occurrence (not on a claims made) basis, except for professional liability insurance and environmental impairment liability insurance, if required by the Contract, which shall be on a claims made basis.

D. Required Endorsements

1. Additional Insureds Endorsement. All policies, except for workers' compensation liability, shall be endorsed to identify the State of Maryland, MDOT, the Administration, and their authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers, and representatives as additional insureds, not named insureds, as their interest may appear in connection with the Contract. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.

2. Cancellation, Material Changes, or Non-Renewal Endorsement. All policies shall be endorsed to provide the Administration with at least thirty (30) calendar days, ten (10) calendar days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.

3. WC 00 03 13 Endorsement. An endorsement equivalent to WC 00 03 13 shall be required to effect the waiver of subrogation requirement for workers'

compensation and employer's liability. A policy endorsement evidencing the same shall be provided to the Administration in accordance with Paragraph E, Evidence of Insurance below.

E. Evidence of Insurance.

1. Prior to the commencement of this Contract, unless otherwise specifically authorized by the Administration in writing, the Contractor hereby agrees to furnish the Administration with certificate(s) of insurance and the required endorsements specified in the Contract, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements of the Contract.
 - a. Each certificate of insurance shall provide for thirty (30) calendar days written notice to the Administration prior to the cancellation, non-renewal, or material change of any insurance referred to in this Article.
 - b. The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted from the cancellation provision of all certificates of insurance provided by the Contractor or duly authorized representative of each insurer.
 - c. Certificates of insurance shall include, at a minimum, the type, kind, and amount of insurance in effect, the period of the policies, the contract number of this Contract, and any applicable additional insured statement as referred to in this Article. In addition, in the event commercial umbrella or excess policies are obtained by Contractor to meet the required limits of insurance, then the certificate of insurance **must** indicate the policies covered by said umbrella or excess policies.
 - d. Certificates of insurance and required endorsements shall be issued to:

**Maryland Aviation Administration
Office of Commercial Management
Third Floor, Terminal Building
P.O. Box 8766
BWI Airport MD 21240-0766
MAAOCMReports@bwiairport.com**

2. The Administration reserves the right to obtain other relevant endorsements, declaration pages, and/or a complete copy of the insurance policies from the Contractor evidencing the coverage required in the Contract, upon written demand. Contractor shall provide certified copies of the required items within ten (10) business days of the Administration's written request. The Administration shall deem such information confidential commercial, and/or confidential financial. All policies and declaration pages shall be returned to the Contractor upon review and acceptance by the Administration.
- F.** In no event shall any insurance referred to in this Section be cancelled by the Contractor without the prior written consent of the Administration.
- G.** The failure of the Administration, at any time or from time to time, to enforce the insurance provisions, to demand such certificate or other evidence of full compliance with the insurance requirements, or to identify a deficiency from evidence that is provided shall not constitute a waiver of those provisions nor in any respect reduce the obligations of the Contractor to maintain such insurance or to defend and hold the Administration harmless with respect to any items of injury or damage covered by the Contract.
- H.** Failure to maintain the insurance required by the Contract shall be the basis for the immediate termination of the Contract at the Administration's option.
- I.** No Representation of Coverage Adequacy. By requiring the Contractor to maintain insurance, the Administration does not represent that coverage and limits will necessarily be adequate to protect the Contractor, and such coverage and limits shall not be deemed as a limitation on the Contractor's liability under the indemnities granted to the Administration under this Contract.
- J.** As indicated above, Contractor may use commercial umbrella liability insurance so that the Contractor has the flexibility to select the best combination of primary and excess limits to meet the total insurance limits required by the Contract.
- K.** The Administration reserves the right at any time throughout the term of the Contract to adjust the aforementioned insurance requirements, if, in the Administration's sole discretion, the insurance required by the Contract is deemed inadequate to properly protect the Administration's interest.

L. To the extent of the Contractor's knowledge, Contractor agrees to send a written report to the Administration within twenty-four (24) hours or as soon as possible, but no more than four (4) business days, of the Contractor's receipt of any knowledge of any accident or other event arising in any manner from the performance of the Contract which results in or might have resulted in bodily injury, personal injury, property damage, or loss of any kind. A copy of the report shall also be sent to:

**Maryland Aviation Administration
Office of Safety & Risk Management
Kauffman Building
1500 Amtrak Way
BWI Airport MD 21240-0766**

With a copy to:

**Director
Office of Airport Operations
Maryland Aviation Administration
Third Floor, Terminal Building
P. O. Box 8766
BWI Airport, MD 21240-0766**

And a copy to:

**Director
Office of Commercial Management
Maryland Aviation Administration
Third Floor, Terminal Building
P. O. Box 8766
BWI Airport, MD 21240-0766**

ARTICLE XXIII PROPERTY LOSS, DAMAGE

Administration shall not be liable for any damage to property placed in the custody of its employees, nor for the loss of any property by theft or otherwise. Contractor shall reimburse Administration for all expenses, damages, or fines incurred or suffered by Administration by reason of damage or injury to persons or property caused by moving property of or for Contractor in and/or out of the Leased Premises, or by the installation or removal of furniture or other property of or for Contractor, or by reason of or arising out of the occupancy or use by Contractor of the Leased Premises, or any part of either thereof, or from any other cause due to the carelessness, negligence, or improper conduct of Contractor. Contractor shall not move any

heavy machines, heavy equipment, bulky matter, or fixtures into or out of the Leased Premises without Administration's prior written consent.

ARTICLE XXIV
NOTICE OF FIRE & ACCIDENT

Contractor shall give Administration immediate notice in case of fire, accidents, or impairment to any required fire suppression and/or notification devices at the Leased Premises by telephoning the Fire Rescue Service via BWI Dispatch at (410) 859-7222 to report any such incidents.

ARTICLE XXV
FIRE OR OTHER OCCURRENCE

A. Insurable Cause

During the entire term of this Contract, if any portion of the Leased Premises shall be damaged or destroyed by fire or other specified insurable casualty (insurable cause) written and covered under the policies of insurance which the Contractor is required to provide under the provisions of Article XXII - Insurance of this Contract or any other policy Contractor may carry, promptly following the collection of insurance proceeds, Contractor shall cause the work of repair and restoration to commence and shall restore the Leased Premises within six (6) months thereafter as nearly as possible to its condition before the date of such damage or destruction to the extent of insurance proceeds received by Contractor plus the amount of any deductible uninsured loss below the coverage level of Contractor's insurance. All insurance proceeds received by the Administration, the Contractor and its leasehold mortgagee(s), if any, from the policies of insurance provided by the Contractor, less the cost, if any, of its recovery, shall be held in trust and applied by the Administration, the Contractor and its leasehold mortgagee(s), if any, to the payment of the work of such repair and restoration by the Contractor's contractors as the work progresses, but subject, however, to reasonable safeguards imposed by the Administration and the Contractor's leasehold mortgagee(s), if any, as to the payment of the funds, including, but not limited to, the requirement (i) that an approved architect or other expert approve the work covered by a requisition for payment before the payment or draw is allowed, (ii) that each contractor and supplier of labor and materials furnish partial lien waivers as a condition of each requisition for a partial

payment or draw, and (iii) that each contractor and supplier furnish full and final lien waivers at the time of the final completion of all work as a condition of final payment, including any retainage.

B. Uninsurable Cause

1. If the Leased Premises or the facilities or other improvements shall be damaged or destroyed by a cause, including but not limited to war or nuclear attack, not covered by Contractor's insurance maintained pursuant to Article XXII - Insurance hereof or otherwise carried by Contractor, then the Contractor shall have the right, to be exercised by notice in writing delivered to the Administration within sixty (60) days following the date of the uninsured loss, to (i) terminate this Contract, or (ii) repair the damage or destruction at its expense.
2. If the Contractor elects to terminate this Contract for the reasons permitted by Section B.1. above, the Contractor shall pay rent and all other costs and charges and shall perform all obligations hereunder accrued and apportioned to the date of the uninsurable cause and shall promptly vacate and restore the Leased Premises to its original condition (i.e., clear the site and remove the debris), normal wear and tear excepted.

C. Rent Abatement

Following the date of any occurrence (insurable or not) causing damage or destruction to the Leased Premises the rent and all other charges and fees due hereunder shall be reduced appropriately to the extent to which all or any part of the Leased Premises are rendered untenable until such time as the damage or destruction is fully repaired or restored and the Leased Premises are again ready for occupancy or the expiration of six (6) months from the collection of insurance proceeds, whichever occurs first.

ARTICLE XXVI
DAMAGE OR DESTRUCTION OF LEASED PREMISES

A. Partial Damage

If all or any portion of the Leased Premises is partially damaged by fire, explosion, the elements, act(s) of war or terrorism, or other casualty, but not rendered untenable, the

same will be repaired with due diligence by the Administration at its own cost and expense, and there shall be no abatement of Contractor payments, provided, however, that if the damage is caused by the act or omission of Contractor or any of its principals, officers, directors, employees, servants, subcontractors, agents, volunteers or representatives, Contractor shall be responsible at its expense for making the necessary repairs as approved by the Administration. If the Contractor fails to make the necessary repairs in a timely manner as determined by the Administration, then Contractor shall reimburse the Administration for its costs and expenses incurred in such repair, plus a twenty-five percent (25%) administrative fee.

B. Extensive Damage

If damages referred to in Article XVI.A above shall be so extensive as to render part or all of the Leased Premises untenable, but capable of being repaired in one hundred and twenty (120) days, the same shall be repaired with due diligence by the Administration at its own cost and expense, and the Contractor's payments payable herein shall abate, in proportion to the portion of the Leased Premises rendered untenable, from the time of such damage until such time as the Leased Premises are fully restored and certified by the Administration's engineers as ready for occupancy; provided however, that if said damage is caused by the act or omission of Contractor or any of its authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers or representatives, there shall be no abatement of rent and the Contractor shall be responsible, at its expense, for making the necessary repairs as approved by the Administration. If the Contractor fails to make the necessary repairs in a timely manner as determined by the Administration, then Contractor shall reimburse the Administration for its costs and expenses incurred in such repair, plus a twenty-five percent (25%) administrative fee.

C. Complete Destruction

1. Subject to Paragraph C.2 below, in the event the Leased Premises are completely destroyed by fire, explosion, the elements, act(s) of war or terrorism, or other casualty or so damaged that they are untenable and cannot be replaced except after more than one hundred and twenty (120) days, the Administration shall be

under no obligation to repair, replace, and reconstruct said Leased Premises and Contractor payments shall abate as of the time of such damage or destruction and shall henceforth cease until such time as said Leased Premises are fully restored, or until Administration provides substitute facilities, acceptable to Contractor, for use by Contractor. If within twelve (12) months after the time of such damage or destruction said Leased Premises shall not have been repaired or reconstructed, and Administration has not supplied substitute facilities, acceptable to Contractor, Contractor may give the Administration written notice of its intention to cancel this Contract in its entirety as of the date of such damage or destruction.

2. If the Leased Premises are completely destroyed as a result of the act or omission of Contractor or its authorized principals, officers, directors, employees, servants, subcontractors, agents, volunteers or representatives, applicable rents and charges shall not abate and the Administration may, in its discretion, require Contractor to repair and reconstruct said Leased Premises within twelve (12) months of such destruction and pay the costs therefore; or the Administration may repair and reconstruct said Leased Premises within eighteen (18) months of such destruction and Contractor shall be responsible for reimbursing the Administration for the costs and expenses incurred in such repair, plus a twenty-five percent (25%) administrative fee.

ARTICLE XXVII **NOTICES**

All notices to the Administration shall be hand delivered, sent by overnight mail, or sent by certified mail, return receipt requested, addressed to the Administration at the address stated below or at such other address as the Administration designates in writing. All notices to Contractor shall be hand delivered, sent by overnight delivery (FedEx, USPS, UPS, etc.) or sent by certified mail, return receipt requested, addressed to Contractor at the address stated below or at such other address as Contractor designates in writing. The date of delivery, if by certified mail as evidenced by the postal return receipt, shall be deemed the date of service of the notice.

Note: For notices sent to the Administration by overnight courier, omit the P.O. Box in the address below.

NOTICES TO ADMINISTRATION:

**Director, Office of Commercial Management
Maryland Aviation Administration
Third Floor, Terminal Building
P.O. Box 8766
BWI Airport MD 21240**

NOTICES TO CONTRACTOR:

ARTICLE XXVIII
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
(ACDBE) PARTICIPATION

- A.** This Contract is a revenue-producing contract awarded to Contractor to operate and manage the Integrated Logistics Concession Management Service. The Contractor will use Airport property. This Contract will result in the provision of services to passengers, patrons and tenants at the Airport, a transportation facility. This Contract is outside the scope of State procurement law and State Minority Business Enterprise (MBE) goals. Federal law and regulations impose federal concession ACDBE goals on this Contract.
- B.** In accordance with federal regulations, 49 C.F.R. Part 23, it is the Administration’s obligation to ensure that ACDBEs have the opportunity to compete for available revenues at the Airport. The Administration has set an ACDBE goal of ten percent (10%) of concession gross. The firms Contractor is utilizing to meet these goals are included in Exhibit “C.”
- C.** In order to provide a fair opportunity for ACDBE participation, the Administration requires that Contractor make good faith efforts, as defined in 49 C.F.R. Section 23.95(i) to provide for a level of MDOT-certified ACDBE participation in this concession equal to or greater than ten percent (10%). An ACDBE is required to perform a commercially useful function by being independently responsible for the execution of a distinct element of the work and carrying out its responsibilities by actually performing, managing, and

supervising the work involved. In light of industry practices and other relevant considerations, the ACDBE must have a necessary and useful role in the transaction of a kind for which there is a market outside the context of the ACDBE program, for instance, providing vehicles and personnel to delivery inventory, products, and other goods to Airport Terminal Concessions.

- D.** Contractor shall take all reasonable and necessary steps to commit to, meet and maintain the ACDBE goal. To determine compliance with the ACDBE program, the Administration requires that the Contractor submit quarterly reports, indicating the participating ACDBE(s), the type(s) of work performed, the value of the work and personnel performing the work. The reports shall be submitted within twenty (20) calendar days after each calendar month of the Contract Term. Failure by Contractor to submit required records on a timely basis to the Administration may result in termination of the Contract. The Administration and its duly authorized representatives shall have the right to audit the quarterly reports with or without prior notice. ACDBE reports shall be sent to:

**Director
Office of Fair Practices
Maryland Aviation Administration
Third Floor, Terminal Building
P.O. Box 8766
BWI Airport MD 21240-0766**

With a copy to:

**Director
Office of Commercial Management
Maryland Aviation Administration
Third Floor, Terminal Building
P.O. Box 8766
BWI Airport MD 21240-0766
MAAOCMReports@bwiairport.com**

All such records must be retained by Contractor for a period of three (3) years following Contract completion and will be made available for inspection upon request by the FAA, MDOT, or the Administration.

- E.** If the Contractor fails to achieve and maintain the level of certified ACDBE participation submitted, the Contractor shall provide documentation demonstrating that it made good faith efforts, as determined by the Administration, in its attempt to achieve and maintain the required level of certified ACDBE participation. The documentation shall include, but not be limited to, correspondence, advertisements, contacts, telephone calls, etc., to obtain services of MDOT certified ACDBEs on this project. If the Contractor fails to reflect a good faith effort and maintain the level of certified ACDBE participation submitted in its Bid throughout the term of the Contract, the Administration may consider this as a material breach of the Contract and may terminate the Contract in accordance with Article XXXV, Default and Rights and Remedies Upon Default. Contractor must also obtain approval of Administration's Office of Fair Practices before substituting another ACDBE firm for any ACDBEs included in the approved ACDBE participation plan and/or making any other changes to the approved ACDBE participation plan.
- F.** The Contract is subject to the requirements of 49 C.F.R. Part 23. The Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 C.F.R. Part 23. The Contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 C.F.R. Part 23 that it enters and cause those businesses to similarly include the statements in further agreements.
- G.** The Administration shall notify Contractor in the event that new regulations are issued by the United States Department of Transportation (DOT) implementing section 511 (h) of the Airport and Airway Improvement Act (hereinafter referred to as "AAIA") of 1982, as amended. In the event the new or revised regulations impose new or additional requirements on the Administration related to this Contract, Contractor agrees to use its best efforts to comply with the new requirements.

- H. For purposes of ACDBE goal attainment, the participating certified ACDBEs must be certified with MDOT in the appropriate North American Industry Classification System (NAICS) Codes for the type of goods and/or services they are providing. MDOT assigns the codes and description at the time of certification. Further, the participating ACDBEs must be eligible to participate in the ACDBE program.
- I. Executed agreements with ACDBE subcontractors, if proposed as a method of achieving participation, must be submitted to the Administration by the Contractor within thirty (30) calendar days after commencement date.
- J. Any questions pertaining to certification procedures, eligibility criteria, submittal of Disclosure Affidavits, and obtaining appropriate forms shall be directed in writing to:

**Director, Office of Fair Practices
Maryland Aviation Administration
Third Floor, Terminal Building
P.O. Box 8766
BWI Airport MD 21240-0766
Telephone: (410) 859-7009**

Or

**Director, Office of Minority Business Enterprise
Maryland Department of Transportation
7201 Corporate Center Drive
P.O. Box 548
Hanover MD 21076
Telephone: (800) 544-6056**

ARTICLE XXIX
COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Contractor, at its expense, shall comply with all applicable provisions of the Americans with Disabilities Act and shall not discriminate or permit discrimination against any persons or group of persons in any manner on the grounds of race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity or disability. This Contract is subject to the provisions of Nondiscrimination on the Basis of Disability in State and Local Government Services, 28 C.F.R. § 35.130 (2016).

ARTICLE XXX
COMPLIANCE WITH NON-DISCRIMINATION REQUIREMENTS

This Contract is subject to the provisions outlined in Attachment No. 6, incorporated by reference. During the performance of this Contract, Contractor, for itself, its assignees, and successors in interest agrees as follows:

A. Compliance with Regulations

Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

B. Non-Discrimination

Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.

C. Solicitation for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

D. Information and Reports

Contractor will provide all information and reports by the Acts, the Regulations, and directives issued pursuant and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor of the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and Instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal

Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance

In the event of a contractor's noncompliance with the Non-discrimination provisions of this Contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

1. Withholding payments to the Contractor under the Contract until the Contractor complies;
2. Cancelling, terminating, or suspending a contract, in whole or in part.

F. Incorporation of Provisions

Contractor will include the provisions of Paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Contractor will act with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contract may request the United States to enter into litigation to protect the interests of the United States.

ARTICLE XXXI
AIRPORT DEVELOPMENT, EXPANSION OR MODIFICATION

Contractor agrees that no liability shall attach to the Administration, its officers, agents and employees by reason of any efforts or actions related to development, expansion or modifications of the Airport and, for purposes of implementing any present or future Airport Master Plan or for any other Airport related purposes in its sole and absolute discretion the Administration may deem necessary and for and in consideration of granting the rights and privileges herein granted, Contractor waives any right to claim damages or other consideration arising there from. The Administration reserves the right to cancel and terminate this Contract upon the giving of ninety (90) days' written notice to Contractor in the event such cancellation and termination is deemed

necessary for the development, expansion or modification of Airport facilities or for such other purposes as Administration may deem necessary. If the Contract is terminated by the Administration for any reason, including pursuant to this Article XXXI, then the Administration shall pay to the Contractor an amount equal to the undepreciated value of the Contractor's equipment purchased to provide the services contemplated by this Contract and the facility improvements that Contractor constructed or installed upon the Leased Premises, using straight-line depreciation over (x) with respect to equipment, a five (5) year life from the day of delivery and (y) with respect to improvements, a ten (10) year life from the first day of the month of installation. Contractor understands that the Administration reserves the right to terminate this Contract without any buyout responsibility if the Contract is terminated for Contractor default during the Contract Term. Nothing in this Contract, whatsoever shall be interpreted, construed, deemed, or implied to restrict in any way the Administration's right to terminate this Contract subject to the provisions as set forth in this Article.

ARTICLE XXXII
FAA OR TSA REQUIREMENTS

In the event that the Federal Aviation Administration (FAA) or the Transportation Security Administration, as a condition precedent to granting of funds for improvements, maintenance or security at the Airport, requires modifications or changes to the Contract, then Contractor shall consent to such reasonable amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of the Contract as may be required to enable the Administration to qualify for and obtain FAA funds provided that in no event shall such changes impair or diminish the rights of Contractor hereunder.

ARTICLE XXXIII
AIRPORT SECURITY & AIRPORT ACCESS

At the discretion of the Administration, or as security conditions may dictate, all Contractor's personnel involved in the Contract (including management) may be required to undergo background investigations. These background investigations may include a ten (10) year employment history verification, a Criminal History Records Check via fingerprinting, and a Security Threat Assessment conducted through the US Department of Homeland Security. Upon completion of one or more of the above background investigations, the Administration may elect

to issue identification badges to contractor personnel. If it becomes necessary to issue identification badges to contractor personnel, the contractor shall follow all security processes necessary to obtain said identification badges. Contractor's personnel shall abide by all airport security regulations and fulfill all responsibilities associated with possessing and airport identification badge. Personnel who do not pass the background investigation(s) may not provide services to the Contractor at BWI Marshall Airport.

ARTICLE XXXIV
CONTRACT CLOSEOUT & TRANSITION PROCEDURES

In connection with any transition in operation of the Permitted Use from Contractor to a new Entity, Contractor shall, both prior to and for a period of one (1) year following termination or expiration of the Contract Term, cooperate reasonably with such new Entity and the Administration to ensure an orderly transition of the CRDF at the Airport by such new Entity, at no cost or expense to Contractor. Such cooperation (where applicable) shall include each of the following:

- A. Contractor shall provide the Administration and such new Entity with access to the Leased Premises at reasonable times upon reasonable advance notice.
- B. Contractor, together with the Administration and new Entity, shall jointly catalogue all fixtures and equipment. If Contractor does not remove any item(s) for which ownership and removal has been approved by the Administration within ten (10) days from termination or expiration of this Lease and Concession Contract, such item(s) shall be deemed to have been abandoned, and either may be retained by the Administration as its sole property (without the execution of any further instrument and without payment of any money or other consideration therefor) or may be disposed of in such manner as the Administration may see fit. Upon the request of the Administration, Contractor agrees, and agrees to require all Sublessees, to execute and deliver such documents and instruments as the Administration shall reasonably request to evidence or confirm the Administration's ownership interest (as set forth herein) in any portion or all of the improvements or fixtures and equipment affixed to the improvements.
- C. Contractor shall furnish to the Administration or new Entity a list of those Employees that are involved in providing the services required by this Lease and Concession Agreement, including their job titles and length of employment with Contractor and

salaries, waive any contractual arrangement, including noncompetition agreements, made with such employees to the extent practicable and not prohibited by law, and allow the Administration and/or such new operator to interview such employees for new employment positions (without any obligation on their part to hire same for any position).

- D.** Contractor shall either terminate or assign all of its subcontract agreements with the new Entity. If such agreements are terminated, Contractor shall furnish to the Administration or new Entity the names, telephone numbers and account numbers of all vendors providing goods and/or services to the CRDF.
- E.** In the event that Contractor shall fail to cooperate with the Administration or such new Entity as aforesaid, then the Administration shall so notify Contractor in writing (which notice shall include a reasonably detailed explanation of the Administration's basis for Contractor's non-compliance). In the event that Contractor shall fail to cure such non-compliance within thirty (30) days following receipt of such notice, Contractor shall pay to the Administration upon demand, as Additional Payment, all of the Administration's damages, costs and expenses arising from such breach; provided that nothing herein shall obligate Contractor to incur any cost or expense with respect to the cooperation set forth in this Article XXXIV.

ARTICLE XXXV
DEFAULT & RIGHTS & REMEDIES UPON DEFAULT

A. Contractor's Default

The occurrence of any one or more of the following events shall be a default by Contractor under this Contract:

1. Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its organization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any state thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or

2. By order or decree of a court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors or, if Contractor is a corporation, by any of the stockholders of Contractor seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof; or
3. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against Contractor that is not dismissed within ninety (90) days after the filing thereof; or
4. This Contract or the rights and interest of Contractor hereunder be transferred to, pass to, or devolve upon, by operation of law or otherwise any other person, firm, or corporation without Administration's prior written approval; or
5. There is a substantial change in the ownership or proprietorship of Contractor, which, in the sole opinion of the Administration, is not in the best interest of the Administration, or the public and substantially diminishes, or indicates the substantial diminution of Contractor's performance of its obligations under this Contract; or
6. Contractor shall, notwithstanding thirty (30) day prior written notice from Administration to rectify any of the following irregularities, (i) cease to be properly registered, qualified, or otherwise remain in good standing in the state of its incorporation, or (ii) cease to be qualified or registered to do business in the State of Maryland, or (iii) become a corporation in dissolution; or
7. Contractor is declared by its mortgagee in default on its mortgage agreement beyond any notice or cure period; or
8. Contractor, if a corporation, without the prior written consent of the Administration, becomes a non-surviving merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution; or
9. Contractor is, or Contractors collectively are, doing business as, or constitute, a co-partnership, and the said co-partnership is dissolved as the result of any action or omission of its co-partners or any of them or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

10. By or pursuant to, or under authority of any federal, State or local statute, regulation or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator takes possession or control of all or substantially all of the property of the Contractor, and such possession or control continues in effect for a period of fifteen (15) calendar days; or
11. Any lien is filed against the Airport property because of any act or omission of the Contractor or any of its agents, servants, employees, or contractors, and is not removed within thirty (30) calendar days; or
12. The Contractor abandons, deserts, vacates, or discontinues performance of its operations and services required by the Contract; or
13. The Contractor assigns, transfers, encumbers or subcontracts the Contract or any interest therein without the prior written approval of the Administration; or
14. The Contractor fails to pay punctually any Rents and other charges or to make any other payment required under this Contract when due to the Administration; or
15. The Contractor fails to maintain the quality of service to the public to the sole satisfaction of the Administration, as required under this Contract, within ten (10) calendar days after receiving notice from the Administration to correct the condition or practice objected to; or
16. There is a cessation or deterioration of services provided by Contractor, as required under this Contract, for a period which, in the judgment of Administration, substantially and adversely affects the operations; or
17. The Contractor or any of its agents, servants, employees, or contractors conducts business activities at the Airport beyond those authorized under this Contract, without the prior written approval of the Administration; or
18. The Contractor or any of its agents, servants, employees, or contractors fails to keep, perform and observe each and every promise, covenant, condition, and agreement set forth in the Contract, and does not cure such failure within ten (10) calendar days after receipt of written notice of non-compliance by Administration, or, when fulfillment of its obligation requires activity over a period of time, fails to commence performance to the satisfaction of the Administration, within ten

- (10) calendar days after receipt of written notice, and to continue such performance without interruption; or
19. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of fifteen (15) days; or
 20. Subject at all times and in all events to the rights of Contractor's leasehold mortgagee(s), if any, and Contractor shall fail to pay punctually any ground rent, fee or any other payment required hereunder when due to the Administration and if such failure shall continue uncured for at least thirty (30) days after receipt by Contractor of written notice of such failure; or
 21. The conduct by Contractor of business activities at the Airport, which have not been authorized hereunder or approved in writing by the Administration and the continued conduct of same for at least thirty (30) days after Contractor receives written demand from the Administration to cease such conduct; or
 22. There is a finding by an independent CPA firm or the Administration's designated auditors which indicates a lack of proper internal control structure or fraudulent practices on the part of the Contractor, which results in an audit adjustment to the amount due to the Administration of five percent (5%) or more in any two (ii) consecutive months; or
 23. Contractor fails to meet or maintain ACDBE participation goals or show good faith efforts to do so in accordance with Article XXVIII - ACDBE Participation.

B. Administration Remedies

Upon the occurrence of any such event of default by Contractor or at any time thereafter during the continuance thereof, the Administration may, at its option, exercise concurrently or successively any one or more of the following rights and remedies:

1. If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the contract, the State may terminate the contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work

provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B;

2. Without waiving any default, pay any sum required to be paid by the Contractor to parties other than the Administration that Contractor has failed to pay, and perform any obligations required to be performed by the Contractor under this Contract, and any amounts so paid or expended by the Administration in fulfilling the obligations of the Contractor thereunder shall be repaid by the Contractor to the Administration on demand with interest thereon at the rate of one and one quarter percent (1.25%) per month from the date of such payment or expenditure, without terminating this Contract;
3. Bring suit (a) for the collection of rent payments for which Contractor may be in default, or (b) for the performance of any obligations of Contractor under this Contract or any other covenant, promise, or agreement or (c) for any other damages consequent to Contractor's default hereunder, all without terminating this Contract;
4. Assess Contractor at the rate of one and one quarter percent (1.25%) per month of any and all rentals and amounts not paid to the Administration when due, until such rentals or amounts are paid;
5. Without prior demand or notice, take possession, and/or assume operation of the Leased Premises, either with or without the institution of summary or any other legal proceedings or otherwise and without diminishing, excusing or altering in any effect the obligations of Contractor under this Contract, with or without, at Administration's option, terminating this Contract;

6. The rights and remedies of the Administration provided under this Article shall not be exclusive and are in addition to any other rights and remedies which the Administration may have at law or in equity or under this Contract.
- C. All rights and remedies provided in the Contract shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any remedy available to the Administration at law or in equity.
- D. No waiver by the Administration at any time of any of the terms, conditions, covenants or agreements herein shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof. No delay, failure or omission of the Administration to take or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of fees then or thereafter accrued, shall impair any such right, power, privilege or option, or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein; and no notice by the Administration shall be required to restore or revive any option, right, power, remedy or privilege after waiver by the Administration of default in one or more instances.
- E. The Administration and the Contractor shall mutually waive all rights to a jury trial concerning a dispute about any issue arising out of this Contract, including but not limited to concession rights, obligations of the Contractor, and the default or termination of the rights and obligations stated in this Contract.

ARTICLE XXXVI
CONDUCT OF BUSINESS

Contractor shall have the right to use public Airport Facilities in common with others authorized to do so, which right shall be exercised in accordance with the laws of the United States of America and the State of Maryland, the rules and regulations promulgated by their authority with reference to aviation and air navigation, and all reasonable and applicable rules and regulations of the Airports.

ARTICLE XXXVII
REMEDIES CUMULATIVE

All rights and remedies provided in this Contract shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any remedy available to the Administration at law or in equity.

ARTICLE XXXVIII
MARYLAND PUBLIC ETHICS LAW

Maryland law provides specific provisions concerning ethics and involvement of certain individuals and entities in State contracts. Maryland Code Annotated, General Provisions Article, Title 5, the “Maryland Public Ethics Law” applies to this Contract and shall be adhered to by Contractor. These include but are not limited to provisions addressing former State officials’ and employees’ subsequent involvement in State contracts, contractors’ participation in the creation of a solicitation being precluded from submitting a proposal, as well as financial disclosures. Contractor shall provide a fully completed and notarized copy Attachment No. 7, the Maryland Public Ethics Law Affidavit, which is incorporated by reference.

ARTICLE XXXIX
APPLICABLE LAW

This Contract shall be construed under and governed by the Constitution and laws of the State of Maryland. Any disputes arising from this Contract shall be resolved in the courts of Maryland, without regard to any principles of conflicts of laws which might suggest application of the laws of another jurisdiction.

ARTICLE XL
TERMINATION FOR CONVENIENCE

Performance under this Contract may be terminated by the Administration in accordance with this clause in whole, or from time to time in part, whenever the Administration shall determine that such termination is in the best interest of the Administration. .

ARTICLE XLI
CONTINGENT APPROVALS

It is agreed and understood by all parties hereto that the execution of this Contract and its effectiveness are contingent upon approval by the Secretary of Transportation and the Board of Public Works of Maryland and this Contract shall be considered to bind the parties hereto in accordance with the Constitution and laws of the State of Maryland and the United States of America.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be properly executed by their duly authorized representatives.

ATTEST:

[SELECTED PROPONENT'S SELECTED LOGISTICS PROVIDER]

BY: _____

[NAME]

[TITLE]

FEDERAL ID NO. _____

WITNESS:

MARYLAND AVIATION ADMINISTRATION

BY: _____

Director

Office of Commercial Management

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: _____
Assistant Attorney General

CONTRACT NO. MAA-LC-XX-XXX